

Regular Session, 2005

ACT No. 488

HOUSE BILL NO. 749

BY REPRESENTATIVES HUTTER, BARROW, BAUDOIN, BOWLER, AND KATZ
AND SENATORS DUPLESSIS AND SCHEDLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Part XII-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2198.11 through 2198.13, relative to pain management clinics; to provide for definitions; to provide for licensure; to provide for rules and regulations; to provide for fees; to provide for the use of fee proceeds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XII-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2198.11 through 2198.13, is hereby enacted to read as follows:

PART XII-A. PAIN MANAGEMENT CLINICS

§2198.11. Definitions

As used in this Part, the following definitions shall apply unless the content clearly states otherwise:

(1) "Board" means the Louisiana State Board of Medical Examiners.

(2) "Department" means the Department of Health and Hospitals.

(3) "Pain management clinic" means a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

(4) "Physician" means an individual who possesses a current, unrestricted license to practice medicine in Louisiana, who during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance and who has not within the past five

1 years had board action taken against his medical license as a result of dependency
 2 on drugs or alcohol.

3 §2198.12. Licensure of pain management clinics; rules and regulations

4 A. Except as provided in Subsection D of this Section, all pain management
 5 clinics shall be owned and operated by a physician certified in the subspecialty of
 6 pain management by a member board of the American Boards of Medical
 7 Specialties.

8 B.(1) The department shall prescribe and publish minimum standards, rules,
 9 and regulations as necessary to effectuate the provisions of this Section. Such rules
 10 and regulations shall include but not be limited to all of the following:

11 (a) Operational and personnel requirements.

12 (b) Practice standards to assure quality of care, including the requirement
 13 that prescriptions may be written for the medication to last a period of no longer than
 14 thirty days without any refills. A refill may be authorized only if the individual is
 15 personally examined by the pain specialist.

16 (c) Licensure application procedures and requirements.

17 (d) Initial and annual renewal of license investigations.

18 (e) Complaint investigations.

19 (f) Reimbursement policies, procedures, and requirements.

20 (g) Denial, revocation, and nonrenewal of licenses and the appeals thereof.

21 (2) The board shall prescribe and publish minimum standards with respect
 22 to pain management clinics and the physicians who may practice in such clinics.

23 C. A license issued under the provisions of this Part is not transferrable or
 24 assignable between persons, pain management clinics, or both.

25 D. The following shall apply to pain management clinics operating on or
 26 before June 15, 2005, pursuant to an occupational license or certificate of operation
 27 which has not been suspended or revoked:

28 (1) The pain management clinic shall not be owned, either in whole or in
 29 part, by or have any contractual relationship, whether through employment or by
 30 independent contract, with a physician who during the course of his practice has been

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~denied the privilege of prescribing, dispensing, administering, supplying, or selling~~
 2 ~~any controlled dangerous substance and who has, within the past five years, had~~
 3 ~~board action taken against his medical license as a result of dependency on drugs or~~
 4 ~~alcohol.~~

5 (2) The pain management clinic shall be operated by a medical director who
 6 shall be a physician.

7 (3) The pain management clinic shall not be owned in whole or in part by a
 8 person who has been convicted of or who has pled guilty or nolo contendere to an
 9 offense that constitutes a felony.

10 (4) The pain management clinic shall not be owned in whole or in part by a
 11 person who has been convicted of or who has pled guilty or nolo contendere to an
 12 offense that constitutes a misdemeanor, the facts of which relate to the distribution
 13 or illegal prescription of any narcotic.

14 (5) The pain management clinic shall operate as an urgent care facility,
 15 offering primary or acute health services in addition to caring for those with chronic
 16 pain and shall have held itself out to the public as such.

17 (6) The pain management clinic shall implement policies and procedures that
 18 are consistent with all pain management regulations issued by the State Board of
 19 Medical Examiners.

20 (7) A pain management clinic which is exempted from the requirement of
 21 being owned and operated by a physician certified in the subspecialty of pain
 22 management may relocate and continue to be exempted from the requirement of
 23 being owned and operated by a physician certified in the subspecialty of pain
 24 management if the new location is in the same parish in which the original clinic was
 25 located.

26 (8) All pain management clinics shall submit to the department all relevant
 27 documentation proving valid operation before June 15, 2005, including but not
 28 limited to occupational licenses or certificates of operation issued by local
 29 authorities.

1 E. The provisions of this Part shall not apply to any of the following:

2 (1) A medical or dental school or outpatient clinic associated with a medical
3 or dental school.

4 (2) A hospital, including any outpatient facility or clinic of the hospital that
5 is separated physically from the hospital, or any other medical or dental facility that
6 is licensed and regulated by the department.

7 (3) A hospice established pursuant to R.S. 40:2181 et seq.

8 (4) A facility maintained or operated by the state of Louisiana or a
9 governmental entity of this state.

10 (5) A clinic maintained or operated by the United States or by any of its
11 departments, offices, or agencies.

12 §2198.13. Annual fee; use of proceeds

13 There shall be an annual license fee to be set by the department not to exceed
14 one thousand dollars for any license issued in accordance with the provisions of this
15 Part. Monies collected for annual fees shall be used for the investigation and
16 enforcement of the provisions of this Part.

17 Section 2. This Act shall become effective on July 1, 2005. However, the provisions
18 of this Act which require the promulgation of rules and regulations by the Department of
19 Health and Hospitals shall not be applied, enforced, or required, as applicable, until such
20 rules and regulations are effective pursuant to the provisions of R.S. 49:954(B). The
21 Department of Health and Hospitals shall immediately commence the process of
22 promulgating such rules and regulations.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____